



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.9613 of 2020

Muthukrishnan

Petitioner/Accused No.1

Vs

1.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.436/2020

Respondent No.1/Complainant

2.Senthilkumar

Respondent No.2/Defacto
Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.436 of 2020, on the file of the first respondent Police and quash the same in so far as the petitioner/A1 is concerned.

For Petitioner : Mr.Veerakathiravan for
M/s.Veera Associates

For R1 : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

2.The second respondent herein is the Defacto complainant in Crime No.436 of 2020 registered on the file of the first respondent for the offence under Section 489(b) of IPC. The defacto complainant had received an information from the agency entrusted with the task of replenishing the ATMs of AXIS Bank, a sum of Rs.10,000/- found in the deposit box is suspected to be counterfeit notes. This information was received by the second respondent on 07.08.2020. When the said notes were checked in the cash counting machine, they were found to be counterfeit notes. The defacto complainant then recollected the previous evening that is, on 06.06.2020, they received a complaint from one Muthukrishnan, son of Muthu, stating that eventhough he had deposited a sum of Rs.10,000 in the deposit machine, he was only issued with the slips ''pending'' with the currency particulars. But then there was no corresponding credit in his account. He had also enclosed the slip. The defacto complainant found that the particulars of counterfeit notes found out by them on 07.08.2020 tallied with the particulars given by Muthukrishnan the previous evening. Complaint was lodged before the first respondent



leading to the registration of the impugned First Information Report under Section 489(b) of I.P.C. The petitioner herein is shown as accused in the First Information Report. For quashing the same, this Criminal Original Petition has been filed.

3.The learned Senior Counsel appearing for the petitioner is not asking for quashing the First Information Report. He wants this court to issue a direction to delete the petitioner's name from the list of accused. The learned Senior Counsel points out that to attract offence under Section 489(b) of IPC, *mens rea* must be present. He places reliance on a few decisions. One such decision is reported in **2018 SCC Online Bom 2969:(2019) 1 AIR Bom T (Crl) 390 (Sanskriti Jayantilal Salia Vs The State of Maharashtra and others.** A learned judge of Bombay High Court after referring to the earlier decisions held that mere possession of counterfeit notes is not punishable under law and it must be proved by prosecution that possession was with knowledge that the said currency notes are fake or counterfeit notes.

4.In the case on hand, it is so obvious that the petitioner did not have *mens rea*. The petitioner had received the said currency notes from another person. In fact, the details of the person from whom the petitioner received the notes was also furnished by the petitioner. If the petitioner had any *mens rea*, he would not have come forward to lodge compliant with the second respondent and that too with relevant particulars.

5.I am satisfied that the petitioner did not have the requisite *mens rea*. Therefore, the present Criminal Original Petition is allowed and the petitioner's name is deleted from the list of accused in the impugned First Information Report. The petitioner of course will figure as witness for the prosecution. The petitioner gives undertaking that he will extend his fullest co-operation. In other words, the petitioner will not turn hostile under any circumstances.The petitioner is a person, who must play a vital role in nailing the real accused. The petitioner undertakes before this Court that whatever the knowledge he has in this case will be shared with the investigating Officer. The first respondent is directed to expedite the investigation in Crime No.436 of 2020.

6. The Criminal Original Petition is allowed on these terms.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
Crime No.436/2020
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-19712[F] dated
12/10/2020)

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09.10.2020

SJ(CO)
KB(02.11.2020) 3P 4C